

**Title 10--DEPARTMENT OF NATURAL RESOURCES**  
**Division 80--Solid Waste Management**  
**Chapter 9--Solid Waste Management Fund**

**PROPOSED AMENDMENT**

**10 CSR 80-9.035 [Waste] Scrap Tire Clean-Up Contracts.** The department is amending the rule title, sections (1) – (4).

*PURPOSE: The department is amending portions of the rule to reflect revised statutory language in Senate Bill 225 to replace references to "waste tire" with the term "scrap tire". This amendment will also provide preference to Missouri vendors bidding on contract, correct typographical errors, grammatical errors, and update materials referenced in the rule.*

(1) General. This rule applies to any person involved in the activities set forth in this rule. The department shall fully or partially bid, in accordance with the terms and conditions of the State of Missouri Office of Administration's bid process, contracts for removing and properly disposing of [waste] **scrap** tires that are stored in violation of the Solid Waste Management Law and implementing rules and/or to those that pose a public nuisance or a threat to the health or welfare of the public.

(A) Bid applications will be reviewed and ranked in accordance with the State of Missouri Office of Administration's bid procedure authorized in Chapter 34, RSMo.

(B) Bids for cleanups will be awarded in accordance with State of Missouri Office of Administration's contract award procedures authorized in Chapter 34, RSMo.

(C) Awarded bids will be ranked pursuant to the criteria set forth in section (3) of this rule.

(D) Clean-up Contract Payment and Records. Contractors shall be paid and records shall be kept in accordance with the State of Missouri Office of Administration's bid document terms and conditions.

(E) All clean-up contracts are subject to the department's funding availability and appropriation.

(F) All [waste] **scrap** tire site cleanups must adhere to Best Management Practices (BMPs) for water pollution control as follows:

1. Erosion and sediment control.

A. Stabilize all high traffic areas, including entrance and exit areas to minimize vehicle tracking.

B. Minimize run-on from adjacent properties through the use of diversion dikes, berms, or equivalent.

C. Trap sediment at down-gradient locations and outlets serving unstabilized areas. This may include filter fabric fences, sediment traps, vegetated swales or strips, diversion structures, retention/detention basins or equivalent.

2. Oil and grease.

A. Maintain equipment to prevent leaks and spills.

B. Use drip pans or other containment under equipment or around petroleum storage areas.

C. Have materials such as absorbent pads easily accessible to clean up spills and leakage.

3. Application of fertilizers, pesticides, and herbicides.

A. Observe all applicable federal, state and local regulations when using these products.

B. Strictly follow recommended applications rates and methods (i.e., do not apply in excess of vegetative requirements).

C. Have materials such as absorbent pads easily accessible to clean up spills.

D. Properly dispose of all containers.

E. The use of petroleum products for vegetative control is prohibited.

4. Maintenance.

A. Conduct inspections of BMPs.

B. Perform preventative maintenance as needed on BMPs.

5. Provide employee training on proper handling and maintenance practices.

6. Discharges shall not cause violations of the general criteria in the Water Quality Standards in 10 CSR 20-7.031(3).

(2) Eligibility. Any person, firm, corporation, state agency, charitable, fraternal, or other nonprofit organization may bid on a contract for each resource recovery or nuisance abatement activity.

**(A) Vender Preference. In letting contracts for the performance of any job or service for the removal or clean up of scrap tires under this chapter, the Department of Natural Resources shall, in addition to the requirements of sections 34.073 and 34.076, RSMo, and any other points awarded during the evaluation process, give to any vendor that meets one (1) or more of the following factors a five percent (5%) preference and ten (10) bonus points for each factor met:**

**1. The bid is submitted by a vendor that has resided or maintained its headquarters or principal place of business in Missouri continuously for the two (2) years immediately preceding the date on which the bid is submitted;**

**2. The bid is submitted by a nonresident corporation vendor that has an affiliate or subsidiary that employs at least twenty (20) state residents and has maintained its headquarters or principal place of business in Missouri continuously for the two (2) years immediately preceding the date on which the bid is submitted;**

**3. The bid is submitted by a vendor that resides or maintains its headquarters or principal place of business in Missouri and, for the purposes of completing the bid project and continuously over the entire term of the project, an average of at least seventy-five percent (75%) of such vendor's employees are Missouri residents who have resided in the state continuously for at least two (2) years immediately preceding the date on which the bid is submitted. Such vendor must certify the residency requirements of this subdivision and submit a written claim for preference at the time the bid is submitted;**

**4. The bid is submitted by a nonresident vendor that has an affiliate or subsidiary that employs at least twenty (20) state residents and has maintained its headquarters or principal place of business in Missouri and, for the purposes of completing the bid project and continuously over the entire term of the project, an average of at least seventy-five percent (75%) of such vendor's employees are Missouri residents who have resided in the state continuously for at least two (2) years immediately preceding the date on which the bid is submitted. Such vendor must certify the residency requirements of this section and submit a written claim for preference at the time the bid is submitted;**

**5. The bid is submitted by any vendor that provides written certification that the end use of the tires collected during the project will be for fuel purposes or for the manufacture of a useable good or product. For the purposes of this section, the landfilling of waste tires,**

**waste tire chips, or waste tire shreds in any manner, including landfill cover, shall not permit the vendor a preference.**

(3) Nuisance Abatement and Resource Recovery Activities.

(A) The department shall give first priority to cleanup of illegal [waste] **scrap** tire sites owned by persons who present satisfactory evidence that such persons were not responsible for the creation of the nuisance conditions or any violations of sections 260.270 through 260.278, RSMo at the site. In evaluating whether a site qualifies for cleanup under this subsection, the department may consider:

1. The degree of responsibility or culpability of such persons for the creation or maintenance of the [waste] **scrap** tire site;
2. The extent to which such persons profited from the hauling, disposal and/or storage of the [waste] **scrap** tires;
3. The extent to which such persons took steps to stop the illegal deposition of tires on the property;
4. The nature of such persons' interest in the property on which the [waste] **scrap** tires were deposited; and
5. The degree of cooperation that such persons provide to the department in abating the [waste] **scrap** tire violations, including the willingness of such persons to allow timely access to the property to conduct any nuisance abatement or resource recovery activities.

(B) Any person who purchases property containing [waste] **scrap** tires in violation of sections 260.270 through 260.278, RSMo after the effective date of this rule shall not qualify for cleanup under subsection (3)(A).

(C) The department shall use the following list of criteria to rank sites for contract cleanups:

1. Presence of mosquitoes and/or other disease-carrying vectors;
2. Risk of fire at the site;
3. Proximity of the [waste] **scrap** tire site to populated areas, businesses, public use areas or highways;
4. Number of complaints received concerning the site;
5. Number of [waste] **scrap** tires present and age of the site;
6. Location of the site in relation to a flood plain, sinkhole, or losing stream;
7. Ability of a person to pay for cleanup of the site;
8. Willingness of a person/local authorities to expedite cleanup of the site;
9. Status of enforcement against any responsible parties;
10. The existence of local programs to prevent illegal dumping or the willingness of local authorities to prosecute persons responsible for illegal dumping; and
11. Any other criteria necessary to protect the public health, safety or welfare and the environment.

(D) The department shall conduct resource recovery or nuisance abatement activities designed to reduce the volume of [waste] **scrap** tires or alleviate any nuisance condition at any site if the owner or operator of such a site fails to comply with the regulations under sections 260.270 through 260.278, RSMo, or if the site remains in violation of such statutes and rules. The department reserves all rights to recover all or a portion of the costs of cleanup from the property owner and any other parties responsible for creation of the [waste] **scrap** tire site except where the property owner presents evidence that such persons were not responsible for the creation of the nuisance conditions or any violations of sections 260.270 through 260.278, RSMo at the site.

(4) Any charitable, fraternal, or other nonprofit organization that voluntarily cleans up land or water resources may be reimbursed for properly disposing of [waste] **scrap** tires collected in the course of such cleanup. Funds will be allocated each year for these types of activities. The amount of funds allocated will depend on funding availability and amount of appropriations.

(A) A portion of the funds allocated will be available to any charitable, fraternal, or other non-governmental nonprofit organization that wishes to clean up small, illegal [waste] **scrap** tire sites in their area. These funds will be awarded under the following conditions:

1. On a first-come-first-served basis;
2. The organization(s) shall receive written approval from the department prior to conducting the cleanup. The organization(s) shall state where they will dispose of the tires and shall estimate the number of tires and the associated disposal costs for which the organization plans to seek reimbursement from the department; and
3. Reimbursement shall be for disposal costs only.

(B) Another portion of the funds allocated will be available for tires picked up as incidental wastes by non-governmental, nonprofit groups which voluntarily clean up land or water resources and collect [waste] **scrap** tires in the course of such cleanup. These funds will be awarded under the following conditions:

1. On a first-come-first-served basis;
2. The organization(s) shall receive written approval from the department prior to conducting the cleanup. The organization(s) shall state where they will dispose of the tires and shall estimate the number of tires and the associated disposal costs for which the organization plans to seek reimbursement from the department; and
3. Reimbursement shall be for disposal costs only.

(C) The department reserves the right to deny funding under section (4) to any charitable, fraternal or other nonprofit organization if adequate funds are not available or if the requirements of this section are not met.

(D) The charitable, fraternal or other not-for-profit organization shall submit documentation (on forms provided by the department) of the number of tires picked up and disposed of before reimbursement will be approved or made.

AUTHORITY: sections 260.225, 260.273, 260.274] and 260.276, RSMo Supp. 1996.\* Original rule filed April 16, 1997, effective Dec. 30, 1997.

PUBLIC COST: This proposed amendment could cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.